



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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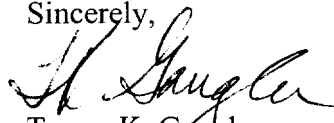
Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: In the Matter of Inquiry Concerning Deployment of Advanced
Telecommunications Capability to All Americans in a Reasonable and
Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant
to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146**

Dear Ms. Salas:

Please find attached an original and four copies of the Comments of the Association for Local Telecommunications Services with regard to the Commission's Notice of Inquiry in the above-referenced proceeding.

Sincerely,


Teresa K. Gaugler

cc: Attached Service List

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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of the Telecommunications Act of 1996)

CC Docket No. 98-146

**COMMENTS OF THE ASSOCIATION FOR
LOCAL TELECOMMUNICATIONS SERVICES**

The Association for Local Telecommunications Services ("ALTS"), pursuant to the Notice of Inquiry ("NOI") in the above captioned proceeding, released February 18, 2000, hereby files its initial comments on the deployment of advanced telecommunications capability.

INTRODUCTION

As a trade association, ALTS does not collect the specific information requested in the NOI, and ALTS expects that individual carriers will provide such detailed information to the Commission. Accordingly, ALTS is submitting general information about competitive local exchange carriers ("CLECs") and the deployment of data services as compiled in a recent ALTS Report, "The State of Competition in the U.S. Local Telecommunications Marketplace" ("ALTS State of Competition Report").¹ This

¹ "The State of Competition in the U.S. Local Telecommunications Marketplace," An Annual Report of the Association for Local Telecommunications Services (ALTS), February 2000 ("ALTS State of Competition Report"). A complete copy of this report is included as Attachment A.

report analyzed the markets for both voice and data services and compiled noteworthy CLEC data regarding geographic concentration, capital formation, investment in new infrastructure, revenue and access line growth, deployment of DSL services, access to buildings, and market capitalization. Overall the report concludes that competition is progressing throughout the nation, generating benefits for consumers and the national economy as a whole.² The competitive industry has grown by almost every metric analyzed—number of carriers, miles of networks constructed, revenues, market share, and customers served.³ While there are still strides to be made to fully open the local markets to competition, CLECs have captured 5-7% of the market share for local services,⁴ demonstrating that the market-opening provisions of the Telecommunications Act of 1996 (the “Act” or “1996 Act”) and the Commission’s rules are operating nationwide to bring competitive services, including broadband services, to consumers.

Nearly half the country now has access to Digital Subscriber Line (“DSL”) broadband services, with over 500,000 DSL lines now in service.⁵ The data collected in the ALTS State of Competition Report shows that the market for advanced services is growing rapidly and is a primary focus for competitive carriers. As additional barriers to entry are eliminated, the benefits of competition will spread even more rapidly. For example, until CLECs are able to access multi-tenant buildings under the same conditions as the incumbent local exchange carriers (“ILECs”) access those buildings, competition there will be stalled. Once CLECs have nondiscriminatory access to those buildings, tenants will have true competitive choice of carriers for both local and advanced services.

² ALTS State of Competition Report, An Open Letter from John Windhausen, Jr., President of ALTS, dated February 2, 2000 (“ALTS State of Competition Report, Windhausen Letter”), at 1.

³ *Id.*

⁴ *Id.* at 2.

The most effective way for the Commission to encourage further deployment of advanced telecommunications capability is to continue to develop pro-competitive policies and to ensure that all incumbent carriers comply with the market-opening provisions of the Act. As long as the providers of monopoly-provisioned services and facilities are required to make those services and facilities reasonably available to all other carriers, a vibrant, competitive market for broadband services will continue to develop. Finally, the Commission must ensure that the unbundling requirements of the Act are enforced so that a level playing field will exist and competitive carriers are not foreclosed from providing any particular service.

I. THE MARKET FOR ADVANCED SERVICES IS THRIVING, AND DEPLOYMENT IS ADVANCING AT A “REASONABLE AND TIMELY” RATE.

Almost one-half of the consumers in the country can now receive DSL service from a local exchange carrier.⁶ Competitors currently provide over 100,000 of the 500,000 DSL lines in service today, and the number of competitor lines is expected to increase fivefold by the end of 2000.⁷ The ALTS State of Competition Report highlights the dramatic increase in deployment of DSL services by competitors over the past few years, using CLEC collocations of data equipment as a surrogate metric. In 1998, CLECs were collocated in 1,430 end offices, which increased to 5,700 in 1999, allowing data CLECs to offer DSL service to about 25% of the nation by the end of 1999.⁸ As competitors rush to rollout broadband facilities, collocations are expected to approach

⁵ *Id.* at 1.

⁶ *Id.*

⁷ ALTS State of Competition Report at 7.

⁸ *Id.*

10,000 in 2000, with data CLECs able to provide DSL capability to 40% of the U.S. in the coming year.⁹

The growth in CLEC data revenues further demonstrates the growth in deployment of advanced services. While collocation data demonstrates the deployment of advanced services capability by CLECs, analysis of their data revenues shows the growth of actual consumer purchases and use of the services. CLEC data revenues, which include both long distance and local, have dramatically increased each year from the base of \$87 million in 1996.¹⁰ Those revenues almost quadrupled in one year from \$2.4 billion in 1998 to \$9.4 billion in 1999.¹¹ With increasing revenue expectations this year, facilities-based CLECs will continue to rollout these services.

CLEC investment in new infrastructure has and will continue to spur the rapid deployment of advanced services. The ALTS State of Competition Report highlights that the number of CLECs has increased sixfold since the passage of the 1996 Act—from close to 50 competitive carriers in 1996 to over 375 in 1999, of which 333 own or control and operate some of their own facilities.¹² Based on this data, it is clear that a large percentage of the operating CLECs have invested in new infrastructure that will benefit the communities they serve. In fact, since the passage of the Act, competitive carriers have invested a total of over \$30 billion on new telecommunications infrastructure and during that time have increased such spending by over 400%.¹³ In contrast to ILEC investment of 23.3%, CLECs have invested over 56% of their total revenue into their new

⁹ *Id.*

¹⁰ *Id.* at 5 and Graphic I.

¹¹ *Id.*

¹² *Id.* at 2.

¹³ *Id.* at 4.

networks.¹⁴ Much of this investment is targeted toward facilities to provide advanced services. Thus, with an estimated CLEC investment of over \$1 billion every month in their networks,¹⁵ CLECs will be able to rapidly create and deploy innovative services throughout the country.

II. COMPETITIVE CARRIERS NOW PROVIDE SERVICE IN EVERY STATE IN THE U.S. AND WILL HELP BRING COMPETITIVE BENEFITS TO ALL AMERICANS.

One of the most significant findings of the ALTS State of Competition Report is that every state in the nation now benefits from the entry of at least one competitor into the local telecommunications market.¹⁶ This includes some of the most rural states, such as Alaska, Montana and West Virginia. “Perhaps even more striking is that the “average” state already has 21 to 30 CLECs in operation. This is a strong sign that competitors intend to offer competitive service in urban, suburban and rural areas of the country.”¹⁷

Just because deployment may not be as robust in residential and rural areas as in business and urban markets does not mean that such deployment is unreasonable or untimely. ALTS cautions the Commission not to place too much emphasis at this stage on the fact that deployment has reached more business than residential customers. Although broadband services have been deployed in limited areas for the past three years, the residential market for these services is still in its infancy and will continue to grow. For example, with the increasing number of people establishing home offices, the demand for broadband services to residential markets is expanding and will naturally lead

¹⁴ *Id.*

¹⁵ ALTS State of Competition Report, Windhausen Letter, at 1.

¹⁶ ALTS State of Competition Report at 2.

¹⁷ *Id.*

carriers to provide services to those customers. This deployment will also spillover to benefit consumers in those areas who may not have established home offices but wish to purchase broadband services for their personal use at home.

Moreover, ALTS concurs with the Commission's supposition that deployment to business customers may be a catalyst to deployment to residential customers in a particular geographic area.¹⁸ The strategy of many competitive carriers involves initially targeting business customers to ensure that entry into that market will be successful. Once the carrier has established a foothold in the market, it will typically expand its offering to residential customers in that area. Thus, the disparate deployment between those markets should not be viewed as a setback to be addressed by the Commission at this time; rather the extensive deployment of broadband services to business customers should be regarded in most cases as a precursor to entry into the residential market. By continuing to implement pro-competitive policies for both markets, the Commission will be able to foster broadband deployment in the residential, as well as business, market without attempting to create artificial incentives or requirements for broadband deployment to residential users.

More importantly, it is clear that CLECs are already deploying advanced telecommunications capability to residential customers. Several of ALTS' members currently offer broadband capability to residential customers, and others have business plans that include the provision of such services to residential markets in the future. For example, Covad Communications recently announced its DSL services would be

¹⁸ *Notice of Inquiry*, Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable And Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, FCC 00-57 (rel. Feb. 18, 2000) ("*NOI*") ¶ 20.

available to over 625,000 residential customers in the Pittsburgh, Pennsylvania surrounding areas and in 600,000 homes in the areas of Richmond and Norfolk, Virginia.¹⁹ Covad expects its network to reach more than 40 percent of all U.S. homes by the end of 2000.²⁰ In November 1999, Rhythms NetConnections announced its plans to double its current deployment to reach over 70 markets, covering 45 percent of homes in the U.S.²¹ And NorthPoint Communications' broadband network currently serves 33 markets and is expected to pass almost half of all U.S. homes and business by the end of the year.²² These announcements regarding present and future deployment highlight that CLECs are committed to providing broadband services to residential customers.

ALTS commends the Commission for its adoption of the *Line Sharing Order*, requiring ILECs to unbundle access to the high frequency portion of the loop.²³ As the Commission noted in the *Line Sharing Order*, deployment of DSL lines grew 300% in the first half of 1999.²⁴ Strict enforcement of this requirement will without a doubt boost the deployment of broadband services even further by allowing CLECs to provide such services without incurring the higher costs of purchasing a second line from the ILEC. By eliminating this former barrier, the Commission has increased incentives for CLECs

¹⁹ See *Covad Extends Its DSL Network to Pittsburgh Business and Home Users* (February 15, 2000) (Visited 3/13/00) http://www.covad.com/pr/pr_2000/021500_press.cfm; *Covad Extends Its DSL Network to Norfolk and Richmond Business and Home Users* (Jan. 31, 2000) (Visited 3/13/00) http://www.covad.com/pr/pr_2000/013100_press.cfm.

²⁰ *Id.*

²¹ See *RHYTHMS ANNOUNCES PLANS TO DOUBLE CURRENT DEPLOYMENT; INTENDS TO COVER MORE THAN 50 PERCENT OF U.S. BUSINESSES AND 45 PERCENT OF HOMES BY END OF 2000* (Nov. 10, 1999) (Visited 3/13/00) <http://www.rhythms.com/about/pr/expansion.html>.

²² See *NORTHPOINT COMMUNICATIONS AND MICROSOFT EXPAND ALLIANCE TO ADDRESS \$2.3 BILLION CONSUMER BROADBAND SERVICES MARKET* (Jan 6, 2000) (Visited 3/13/00) http://www.northpointcom.com/pressroom/2000/press_000106.html.

²³ *Third Report and Order in CC Docket No. 98-147; Fourth Report and Order in CC Docket No. 96-98*; In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 99-355 (rel. Dec. 9, 1999) ("*Line Sharing Order*"), ¶ 4.

²⁴ *Id.* ¶ 4 n.6.

to rapidly deploy advanced services, especially in residential markets. Furthermore, because CLEC costs to provision these services are reduced, CLECs will be able to provide the services at economical rates for residential customers, thereby increasing the likelihood that residential customers will actually purchase and make use of these services. “Once the remaining barriers to competition are removed, residential customers will find that high-speed Internet connections and competitive voice services will be as affordable and as easy to install as a telephone.”²⁵

One further action the Commission should take to promote deployment of advanced services, particularly to residential areas, is to mandate that CLECs gain nondiscriminatory access to multi-tenant environments (“MTEs”).²⁶ Competitive carriers have access to only a small percentage of MTEs.²⁷ With 30% of residential customers living in MTEs,²⁸ that leaves a large percentage of the residential market with no competitive choice of carriers for local services or advanced services. Many MTE owners and managers have placed restrictions on telecommunications carrier access—sometimes barring such carriers altogether—so that competition does not exist for their tenants.²⁹ The restrictions imposed by MTE owners and managers are nullifying the progress made by the Commission and competitive carriers in bringing

²⁵ ALTS State of Competition Report, Windhausen Letter, at 1.

²⁶ *Notice Of Proposed Rulemaking And Notice Of Inquiry in WT Docket No. 99-217, and Third Further Notice Of Proposed Rulemaking in CC Docket No. 96-98; In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 99-141 (rel. July 7, 1999) (“Competitive Networks NPRM”).*

²⁷ ALTS State of Competition Report at 6.

²⁸ *Id.*

²⁹ See ALTS' Comments filed in response to the *Competitive Networks NPRM*.

telecommunications competition to all Americans. With access to those buildings, competitive carriers could more easily gain a foothold in that market, which would allow them in turn to expand their service offerings to other residential customers in the area. Thus, by mandating nondiscriminatory access to those buildings, the Commission will spur local competition and the deployment of advanced services to those tenants and the surrounding areas.

CONCLUSION

ALTS applauds the Commission for its work to date in attempting to compile comprehensive data to keep abreast of the state of competition in the local exchange market as well as the advanced services market. ALTS stands ready to assist the Commission as it seeks to further the deployment of advanced telecommunications services and facilities.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "T. Gaugler", is written over a horizontal line.

Teresa K. Gaugler
Jonathan Askin
Association for Local
Telecommunications Services
888 17th Street, NW, Suite 900
Washington, DC 20006
(202) 969-2587

March 20, 2000

Attachment A



The State of Competition In the U.S. Local Telecommunications Marketplace

*An Annual Report
of the
Association for Local Telecommunications Services (ALTS)
February 2000*

Executive Summary

This report, the first of its kind for ALTS and for the U.S. telecommunications industry, highlights the tremendous changes and growth in the local telecommunications marketplace since it was officially opened to competition by the Telecommunications Act of 1996. The information on the following pages demonstrates that local telephone competitors are growing significantly in number, billions of dollars invested, customers, revenues and broadband deployment. Policy-makers can expect even greater progress in the near future if the pro-competitive policies of the 1996 Act are fully implemented and enforced.

ALTS' Annual Report On The State of Local Telecom Competition:

New Data On A New Industry Group

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President, Association for Local Telecommunications Services (ALTS)
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February 2, 2000

An Open Letter From
John Windhausen, Jr.,
President of ALTS

Re: ***ALTS' ANNUAL MESSAGE ON
THE STATE OF COMPETITION IN LOCAL TELECOMMUNICATIONS***

The competitive landscape in local telecommunications has changed dramatically for the better, and consumers are the big winners. For years, telecommunications consumers demanded new high-speed Internet connectivity, responsive customer service, and lower prices. In passing the Telecommunications Act of 1996, Congress answered the call by opening the local telephone market to competition and creating a new breed of telecommunications company, known as "CLECs" (Competitive Local Exchange Carriers).

Substantial Evidence That The Act Is Working

Clearly, Congress had the right idea. The emergence of competition in the local telephone marketplace has generated enormous investment in new technologies and consumer services. Consumers are now beginning to enjoy unprecedented access to high-speed, low-cost internet access services. Close to one-half of the U.S. can now receive Digital Subscriber Line (DSL) service – the newest and cheapest broadband technology. Schools, hospitals and small businesses are already taking advantage of this low-cost technology that was previously available only to big businesses. Once the remaining barriers to competition are removed, residential consumers will find that high-speed Internet connections and competitive voice services will be as affordable and as easy to install as a telephone.

ALTS has assembled this first Annual Report on the State of Local Competition to document our tremendous progress since 1996. As the Report demonstrates, the competitive telecommunications industry has grown in almost every way imaginable – number of carriers, miles of new networks constructed, revenues, market share, and customers served. To pick out just one statistic, **CLECs have doubled their total local revenues every year since 1996.**

Today, we are also releasing our first ALTS Analysis, a paper written for ALTS by HAI, Inc. This paper concludes that the growth of competition has generated significant benefits for consumers and for the national economy as a whole. The paper documents the enormous explosion of investment in telecommunications by both CLECs and ILECs in the last four years. The analysis concludes **that CLECs alone have invested \$30 billion in new networks since passage of the Act and are now investing over \$1 billion every month in their networks.**

ALTS' own growth is equally impressive. As the attached chart shows, ALTS' membership has grown from 13 CLECs in 1996 to almost 90 CLECs today. Including our affiliate members, ALTS now represents the interests of almost 200 companies involved in providing competitive local telephone service.

Challenges to the '96 Act Remain; Threatens Nascent Competition

Notwithstanding the tremendous progress made by CLECs, the competitive industry continues to face enormous challenges. The incumbent telephone companies continue to make it extremely difficult for competitors to interconnect with their networks, despite numerous federal and state orders requiring the ILECs to open their networks to competition. Furthermore, many cities make competitors' lives miserable by imposing enormous franchise fees and onerous regulations that are unnecessary and unwise. Finally, building owners often resist competitors' requests to provide broadband wireless and wireline services to commercial tenants and apartment-dwelling families.

Thus, despite our significant growth, competitors remain far behind the behemoth Bell Companies and GTE in revenues, customers, and lobbying resources. **The incumbent local exchange companies, the "ILECs", still serve between 93% and 95% of the local telephone market.**

Meanwhile, of the 375 competitive companies in the local marketplace, none are generating any earnings, and only three are currently generating more revenue than expenses (that is, are EBITDA positive). All CLECs continue to be highly dependent upon capital markets to build out their networks in existing areas and expand to new ones. Additional capital is also required to meet payroll, sustain operations, and market to new customers. This is, of course, typical of start-up businesses in capital-intensive industries.

As a result, the future of the competitive industry is extremely vulnerable to shifting expectations in the capital markets. We are dependent upon the willingness of financial houses to sell our stock and issue more debt. Legislation such as H.R. 2420, (the Tauzin-Dingell bill) can create such uncertainty on Wall Street that investors could be frightened away, leaving us gasping for more capital to pay our debts and build our networks. The future of competition in the local exchange industry remains fragile and requires that policy-makers stay committed to enforcing the 1996 Act.

In short, while we have made great strides in serving the needs of consumers so far, we could have done so much more if the marketplace had been fully and irreversibly opened to competition. For these reasons, ALTS will focus in the coming year on opening the local market even further. We will begin by attempting to improve the level of cooperation from incumbent telephone companies, cities and building owners. We will

develop stronger ties with the consumers who want our services and work together to remove the last remaining barriers to competitive service.

If these efforts do not succeed, however, we will use every weapon in our arsenals to ensure that the market is opened to competition as the law requires. We applaud Chairman Kennard's commitment to enhance the FCC's enforcement efforts, and we look forward to working more closely with state regulatory commissions to protect our rights.

We will continue to press for self-executing enforcement penalties for non-performance, and pursue complaint proceedings and other legal actions at both the federal and state levels. If even these efforts do not work, we believe it will then be necessary to consider even more drastic action – such as divesting the telephone companies into wholesale and retail units, as contemplated by the state of Pennsylvania and Senator Hollings' legislation (S. 1312).

Looking Forward

A year from now, I hope to report significant progress on all these fronts. It will be a major victory for consumers if I can, indeed, make such a report. I am confident we will make substantial progress. Ultimately, I believe the irresistible force of consumer demand – demand for the fruits of competition in telecommunications – will prevail over monopoly obstruction, which once appeared immovable. Our success in bringing competition to local markets will translate into tremendous benefits for every American and extend our nation's global leadership in telecommunications.

Sincerely,

John Windhausen, Jr.
President
ALTS